

**STATE OF MCHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES**

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

Joseph B. Mattias

Enforcement Case No. 05-3056

Respondent

**Issued and entered
February 2, 2006
by Linda A. Watters
Commissioner**

CONSENT ORDER

A. Findings of fact and conclusions of law

1. At all pertinent times, Joseph B. Mattias (Respondent) was a resident producer with qualifications in Life, Accident and Health, Property and Casualty, authorized to transact the business of insurance in the State of Michigan.
2. As a licensed resident producer, Respondent knew, or had reason to know, that Section 1207(1) of the Code requires an agent to be a fiduciary for all funds collected and that failure of an agent to timely remit premium to the company to whom it is owed violates the Insurance Code.
3. As a licensed resident producer, Respondent knew, or had reason to know, that Section 1239(1)(d) of the Insurance Code provides that the commissioner may place on probation, suspend, and revoke an insurance producer's license for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
4. Respondent received funds at closing for the purpose of obtaining homeowners insurance and has failed to forward the funds to the respective carriers. Respondent conducted business using the names, DeRidder & Associates and DeLago & Associates Insurance.
5. There are approximately twenty-nine consumers who paid premiums for homeowners insurance to Respondent, and did not receive a policy. The names of these individuals and the amount now due and owing to each is set forth on the attached Exhibit A, which is incorporated by reference herein.

6. At no time did Respondent misappropriate the above funds. Respondent failed to timely remit the funds because his business grew very quickly and he did not have sufficient staff or systems in place to timely process the applications and premium payments.
7. At all times the above funds were retained in tact in a bank account awaiting processing. Respondent has implemented the following changes to ensure that no further problems of this nature occur:
 - a. Effective early 2003, Respondent installed a management system from Agency Software, Inc.
 - b. Effective late 2003, the capacity to issue policies online with major carriers was installed in the agency computer system and policies are issued immediately at the point of sale.
 - c. Effective mid-2004, agency sweep accounts were established with Respondent's major carriers so that premium payments received by Respondent are regularly collected electronically from Respondent's bank accounts.
 - d. Effective February 2004, Respondent hired a customer service representative and is in the process of hiring a second customer service representative who is bi-lingual to assist with Spanish-speaking consumers.
 - e. Effective July 2005, Respondent hired a part-time accounts manager to reconcile all funds taken in by the agency on a daily basis to ensure that deposits are properly made to the respective sweep accounts.
8. Respondent will make restitution of all the above and has agreed to reimburse all clients for any increase in premium rates that they have experienced as a result of his failure to timely process their applications.
9. Consequently, by failing to timely remit the premium payments, as prescribed by Section 1207(1), Respondent violated Section 1207(1) of the Code.
10. By improperly withholding, misappropriating, or converting any money received in the course of conducting insurance business, Respondent has violated Section 1239(1)(d) of the Insurance Code.

B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

1. Respondent shall immediately cease and desist from operating in such a manner as to violate Sections 1207(1) and 1239(1)(d) of the Code.

2. Respondent shall pay to the State of Michigan, through the Office of Financial and Insurance Services, a civil fine in the amount of one thousand five hundred (\$1,500.00). The fine shall be paid within thirty (30) days of the date of issuance of this order.
3. Respondent shall make full restitution of the above funds to the appropriate consumer/carrier within 30 days of the date of this order and provide this office with proof of payment.
4. Respondent shall reimburse all consumers for any increase in premiums that occurred as a result of his failure to timely remit the consumers' application/premium payment. The reimbursements shall be made within 30 days of the date of this order and Respondent shall provide this office with proof of payment.
5. Failure to timely pay the fine, restitution and/or reimbursement of increase in premiums will result in **automatic suspension** of Respondent's license until such time as each and all of the monies are paid in full.



Linda A. Watters
Commissioner